

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-30830-2018

Date of Decision: 5.12.2018

Oriental Bank of Commerce

...Petitioner

Versus

M/s Plasko Engineers, Faridabad and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Yogesh Putney, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing respondent No.3 to decide the application dated 19.7.2018 (Annexure P-4) moved by the petitioner under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “the SARFAESI Act”).

2. The petitioner got sanctioned the credit facilities, i.e. Cash Credit Limit of ₹ 85 lakhs to respondents No.1 and 2 vide sanction letter dated 28.12.2015 on execution of various documents, i.e., Sole Proprietorship Letter, Common Agreement and Agreement of Hypothecation of Assets dated 30.12.2015. Respondents No.1 and 2 mortgaged the immovable property, i.e. Plot Nos. A-315 and A-316 (admeasuring 635 square yards) situated at Dabua Colony, Navada Road, NIT Faridabad in favour of the petitioner by way of deposit of original title deeds of the said property. Respondents No.1 and 2 had defaulted in repayment of principal debt/installments and interest thereon and, therefore, its account was declared as Non-Performing Account (NPA) on 30.6.2017.

The petitioner filed OA under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for recovery of ₹ 92,91,065/-

along with pendente lite and future interest, expenses, penal interest and costs. A notice dated 28.7.2017 (Annexure P-2) under Section 13(2) of the SARFAESI Act was issued to the respondents through registered post raising a demand of ₹ 86,99,741 as on 30.6.2017. Since, respondents No.1 and 2 failed to make the loan amount in question, the petitioner took possession of the mortgaged property vide notice dated 7.10.2017 (Annexure P-3). Thereafter, the petitioner filed an application dated 19.7.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.3 for taking physical possession of the mortgaged property, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved an application dated 19.7.2018 (Annexure P-4) under Section 14 of the SARFAESI Act before respondent No.3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the application dated 19.7.2018 (Annexure P-4), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the concerned parties within a period of six weeks from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

December 5, 2018
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No